GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:1533
ANSWERED ON:08.12.2015
Operation of AFSPA
Dhruvanarayana Shri Rangaswamy;Ering Shri Ninong;Jadhav Shri Sanjay Haribhau;Nagar Shri Rodmal;Paraste Shri Dalpat Singh

Will the Minister of HOME AFFAIRS be pleased to state:

(a) the States and regions where the Armed Forces Special Powers Act (AFSPA) is operational;

(b) the number of cases of human rights violations by the security forces reported from the said areas during each of the last three years and the current year, crime-wise and State-wise;

(c) the number of cases disposed off, pending and the number of the victims given compensation during the said period, State-wise;

(d) the details of the organisations which have requested/recommended to repeal the said Act; and

(e) the measures taken by the Government to check the human rights violations in the said region of the country?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI KIREN RIJIJU)

(a): The Act is operational in the following areas:
(i) Entire States of Assam and Nagaland;
(ii) Tirap, Changlang and Longding districts in Arunachal Pradesh and the areas falling within the jurisdiction of the 16 police stations in the districts of the Arunachal Pradesh, bordering the State of Assam;
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-2-
L.S.U.S.Q.No.1533 FOR 08.12.2015

(iii) 20 km wide belt bordering Assam in the State of Meghalaya;
(iv) the State of Manipur excluding Imphal Municipal Area;
(v) districts of Anantnag, Baramulla, Badgam, Kupwara, Pulwama, Srinagar, Jammu, Kathua, Udampur, Poonch, Rajouri and Doda in the State of J & K.
(b) & (c): Information is being collected and will be laid on the table of the House.

(d): Representations have been received from time to time from different organizations/NGOs from Manipur for withdrawal and from the State Government of J&K for phased withdrawal of the Armed Forces Special Powers Act.

(e): For preventing human rights violations under the AFSPA, guidelines containing 'Do's & Don'ts have been issued for the Armed Forces deployed in Counter Insurgency Operation as per the direction of the Supreme Court in Naga People's Movement of Human Rights versus Union of India. Violation of these guidelines by members of the Armed Forces makes them liable for prosecution under the Army Act and the respective Acts of the Central Armed Police Forces. The Human Rights Cells established at various levels of Army and the Central Armed Police Forces regularly monitor alleged human rights violations, by the members of the Armed Forces. The troops are sensitized at regular intervals regarding importance of upholding Human Rights. The institutional mechanisms are in place to deal with cases of human rights violation, the details are as follows:

(i) The first level of approach for the complainant is the Police Station which conducts an immediate inquiry into the allegation. If found correct, the inquiry leads upto the registration of a formal investigation via a First Information Report (FIR). In the event that a complainant has a grievance, she/he has the opportunity to approach any senior police or administrative official, elected representative or the local judiciary, directly.

(ii) Besides, the Police as well as the Security Forces hierarchy conduct parallel processes, both of which are semi-judicial processes as enshrined in law. Another central agency, the Central Bureau of Investigation (CBI) can also be ordered by any higher Court to investigate or re-investigate any such allegation of human rights violation.

...3/-
-3-
L.S.U.S.Q.No. 1533 FOR 08.12.2015

(iii) Moreover, an institutional mechanism exists in the form of Human Rights Commissions at the Centre and in States.

(iv) The higher judiciary i.e. Hon'ble High Courts and Hon'ble Supreme Court of India can record a primary or secondary complaint, apart from sitting in judgment on investigated, charged and district court-judged cases. Under Articles 32 and 226 of the Constitution there are wide-ranging powers with the Hon'ble Supreme Court and Hon'ble High Courts of States to hear a matter of immediate public concern. Public Interest Litigations (PIL) on any matter of Importance, can be filed before the higher court.

(v) In response to extra-ordinary allegations of human rights violations the central or state governments can set up specific commissions of inquiry, under the Commissions of Inquiry Act. These commissions function autonomously and submit reports, which are placed before the relevant legislature.

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